

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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March 3, 2011

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Genachowski:

Thank you for testifying at our February 16, 2011, subcommittee hearing on your rules regulating the Internet. We wish to follow up on some of the issues discussed. Please provide written replies to the following requests for information by close of business, March 7, 2011:

1. You said at the hearing that you would find for us the market analysis the Federal Communications Commission (FCC) conducted justifying government intervention. Please point us to the specific paragraphs and language in the order providing that analysis.
2. President Obama said in a January 18, 2011, Executive Order that agencies should base regulations on a reasoned determination that their benefits justify their costs. While the Executive Order does not apply to independent agencies, the President urged such agencies to follow it, and you have indicated that you plan to do so. Please point us to the specific paragraphs and language in the order containing the FCC's cost-benefit analysis justifying your intervention.
3. President Obama has said that it is important in the current fiscal environment to focus on promoting the economy and creating jobs. Please point us to the specific paragraphs and language in the order analyzing the impact of your rules on the economy and the creation or loss of jobs.
4. The order concludes that its rules will have "minimal" burden on small businesses. Please point us to the specific paragraphs and language in the order providing the analysis to back up that conclusion.
5. The FCC cites section 706 of the Telecommunications Act of 1996 as legal justification for its action in the net neutrality order. While we dispute the Commission's prior

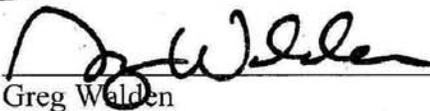
finding that broadband is not being deployed in a "reasonable and timely manner," section 706 states that in the event the Commission finds such a shortcoming, it is empowered to take action "to accelerate deployment of such capability by removing barriers to infrastructure investment." Please point us to the specific paragraphs and language in the order providing the analysis of how the rules remove barriers to infrastructure investment.

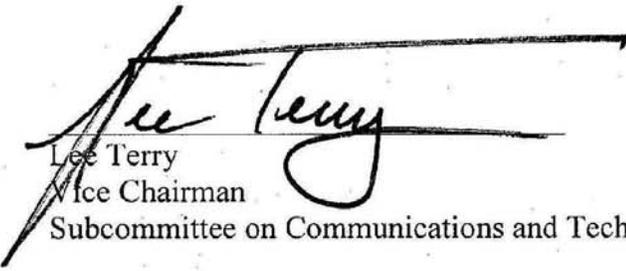
6. The FCC has regulatory docket GN 10-127 open that presents alternative approaches to the net neutrality rules adopted last December. Now that the Commission has adopted an order, will you terminate the open proceeding on Title II regulation of the Internet and your "Third Way" proposal? If not, what purpose does retaining an open docket in those proceedings serve?

Regulation of the Internet and the impact of these regulations on the economy, jobs, innovation, and the American people are of critical concern to this committee. We look forward to your prompt response. If you have any questions, please contact Committee staff Neil Fried and David Redl at 225-2927.

Sincerely,



Fred Upton
Chairman

Greg Walden
Chairman
Subcommittee on Communications and Technology

Lee Terry
Vice Chairman
Subcommittee on Communications and Technology

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Anna Eshoo, Ranking Member
Subcommittee on Communications and Technology

Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell Baker